

Submission Date

19/05/2022

ESMA_QA_822

Status: Answer Published

Additional Information

Level 1 Regulation

Regulation 2020/1503 - European crowdfunding service providers for business

Topic

Information to clients on topics other than costs and charges

Subject Matter

Investor protection and marketing communication

Question

What is the role of Crowdfunding Service Providers (CSPs) in relation to the drawing up and information contained in the KIIS?

ESMA Answer

19-05-2022

Original language

Answer provided by the European Commission - (Published as Crowdfunding Q&A 5.9)

According to Article 23(2) of Regulation (EU) 2020/1503 (the European Crowdfunding Service Provider Regulation -ECSPR), project owners must draw up the key investment information sheet (KIIS) in at least one of the official languages of the Member State of the National Competent Authority (NCA) which granted the authorisation of the CSP or in another language accepted by such NCA, if any. The project owner may benefit from the assistance of the CSP to draw up the KIIS.

According to Article 23(11) ECSPR, CSPs must have in place and apply adequate procedures to verify completeness, correctness and clarity of the information contained in the KIIS for the duration of the crowdfunding offer. The establishment and maintenance of these procedures should not discharge the project owner of its responsibility, set out in Article 23(9) ECSPR, to provide accurate and non-misleading information, as well as its responsibility not to omit key information as set out in Article 23(10)(b). The CSP maintains the responsibility to have adequate procedures in place to identify cases where inaccurate or misleading information may be provided by the project owner and to take appropriate action.

The requirement to verify the completeness, correctness and clarity of the information contained in the KIIS should apply both (i) prior to the publication of the KIIS on the crowdfunding platform CSPs operate or manage and (ii) on an on-going basis afterwards for the duration of the crowdfunding offer, where new information comes to light that would give sufficient reason to believe that the KIIS document might be incomplete, incorrect or unclear.

The answers provided by the European Commission are provided pursuant to Article 16b(5) of Regulation 2010/1095 to clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might

take before the Union and national courts.